

29 January 1982

MEMORANDUM FOR THE RECORD

Staff Meeting Minutes of 29 January 1982

The Director chaired the meeting. []

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The Director reported he had testified on covert action in the Middle East and Latin America before the Addabbo subcommittee and that next week he was scheduled to present the Worldwide Briefings to the Senate Armed Services and the Senate Foreign Relations Committees. On 2 February the HPSCI hearings on Wilson-Terpil will begin, and on 3 February the Director will meet with the American Newsday Publishers Association FOIA Working Group. []

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[] reported all budget actions are on schedule, and the Congressional Justification Book will be ready to go to the Hill on 8 February. Admiral Inman noted that the Justification Book cannot be sent until the President's budget has been presented to the Congress. []

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Fitzwater reported he has been meeting with State Department security officials to discuss security enhancement at embassies and other overseas facilities. The meetings are the result of concerns expressed by State Department and CIA employees overseas. Fitzwater added he will continue the dialogue with State to see where the Agency can provide the Department with assistance. []

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The Director initiated a discussion on a proposal to shield employees from prosecution, a subject which was covered in the 29 January edition of the Washington Post (attached). The Director requested Sporkin to prepare a detailed analysis of the ramifications of the proposal and to have it to him prior to the HPSCI hearings on Wilson-Terpil which begin on 2 February. (Action: OGC) []

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[] noted the recent trip overseas of a State Department official and a HPSCI staff member where they discussed communications with various station personnel in several stations. Admiral Inman said he will be meeting with the two officials on 5 February and said that he will have to be fully briefed on the situation by mid-week. (Action: DDA and OEA) []

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[] said according to a member of Senator Baker's staff it is possible that Identities legislation will be brought to the floor of the Senate on 3 or 4 February. []

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Stein noted the articles appearing in various media on Polish allegations that CIA is directly involved in the turmoil in Poland. Stein added these are allegations that have been made in the past; there is nothing new; and there have been no asset losses because of the reports. [REDACTED]

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Admiral Inman said performance of the Agency in responding to correspondence is not good. He said both he and the Director have been embarrassed when requests have taken a long time to prepare and no interim response has been sent to the requesters explaining the reason for the delay. Admiral Inman said that the Executive Secretary has been tasked to police deadlines closely and to provide the Executive Director a weekly list of those actions which have not met their deadlines and reasons therefor. The Director noted that he is concerned with the time it takes to get correspondence out of the building as well as to him. Admiral Inman noted that there is a well-established procedure which should be followed in responding to correspondence and in getting correspondence to the Director and him. He said that in most cases where memoranda to the Director are for information only, it is sufficient for him to receive a drop copy rather than have the correspondence held up until he can get to it. In response to the Director's question, the Executive Secretary emphasized that all correspondence should go through him for control and coordination and not be hand carried. [REDACTED]

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Attachment

SECRET

CIA Chief Proposes Shielding Agents From Prosecution

By Ronald J. Ostrow
Los Angeles Times

Central Intelligence Agency Director William J. Casey has proposed that Congress shield CIA agents from criminal prosecution while they are on legitimate missions, a proposal that Department of Justice intelligence experts fear would sanction lawbreaking, it was learned yesterday.

Casey made the proposal in a letter last month to Attorney General William French Smith, who has not yet decided whether to incorporate it in the administration's effort to revise the federal criminal code.

But the Justice Department's office of intelligence policy review has strongly recommended against supporting Casey, saying his proposal would permit CIA agents to "freely engage" in otherwise illegal activities without authorization or approval from the department.

On the other hand, CIA officials said the proposed change would give the agency no more latitude than it already enjoys under current law and that it wanted only to "maintain our capabilities to do the kinds of things we do abroad."

Casey's proposal would add this language to the federal criminal code:

"Nothing in [federal criminal law] shall be construed to create criminal liability for the conduct of intelligence activities by a federal public servant that are authorized and conducted in accordance with the Constitution and applicable federal statutes, executive orders, presidential directives and department or agency regulations which regulate the conduct of intelligence activities."

As an example of the kinds of violations this could lead to, according to Smith's intelligence policy review office, a CIA source authorized to collect foreign intelligence outside the United States might participate in an international narcotics transaction or bribe a foreign official to maintain his cover.

Under Casey's proposal, such an action could not be punished in U.S. courts.

The timing of Casey's letter is likely to add to its controversy. It was sent less than three weeks after President Reagan's executive order loosening restrictions on the nation's intelligence agencies and when the CIA is under scrutiny for possible involvement of some of its operatives and ex-agents in training Libyan terrorists.

Stanley Sporkin, the CIA's general counsel, said that he regarded the proposal as a technical, legal matter and not a policy change. "It has not been expressed to me that any branch of the government has a concern with this," Sporkin said.

But Richard K. Willard, formerly Smith's counsel for intelligence policy, was said to have warned the attorney general that Casey's proposal would be misinterpreted by the public and Congress. According to colleagues, Willard said that the Casey proposal would sow the seeds for serious and continuing misunderstanding between the Department of Justice and the CIA.

Sporkin said that the CIA's legal staff drew up the proposal in response to legislation pending in Congress to revise the federal criminal code. The legislation would expand the extraterritorial jurisdiction of the United States.

Casey said in his letter to Smith that the criminal code revision legislation lacks "a definitive statement" on the relationship between the code and the conduct of intelligence activities.

"The absence of such a statement combined with the expanded extraterritorial federal jurisdiction that the legislation provides creates uncertainties that could seriously impair intelligence efforts," Casey wrote.

He said that if the proposed code were adopted, an agent carrying out legitimate intelligence activities would have standing between him and criminal prosecution only the discretion of a prosecutor and "the common-law defense of exercise of public authority."

Sporkin said the CIA proposal represented "an abundance of caution. We want to be sure we're not inadvertently involved in a violation where one of our agents has fully complied with all aspects of American law."

Several Justice Department officials discussed the Casey proposal only on condition that they not be identified.

One official called the proposal "harebrained." Another said the CIA had "overreacted."